

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.2605 of 2017

ORDER:

Heard the learned counsel for the petitioner.

The present revision case is filed challenging the orders passed in C.C.(SR).No.899 of 2016 dated 08.09.2017 on the file of the Chief Metropolitan Magistrate, Hyderabad, dismissing the complaint filed by the petitioner for the offences under Sections 420 and 506 IPC against the 2nd respondent.

The case of the petitioner is that the 2nd respondent is the owner of House bearing No.20-2-704 comprising of 151.52 square yards, Second Floor, situated at Hussaini Alam, Hyderabad. Since the 2nd respondent offered to sell the said house for a sale consideration of Rs.16,00,000/-, he offered to purchase the same and paid a sum of Rs.2,50,000/- towards advance amount and the 2nd respondent in lieu of acknowledging the same, passed a receipt on 02.12.2012. Thereafter, the 2nd respondent, after receiving the remaining sale consideration, failed to register the property in his name for obvious reasons. When the petitioner approached the 2nd respondent many a time for registration of the property, he did not show any interest. On the other hand, he assured to refund the earnest money. On 02.12.2015, when the petitioner went to the house of the 2nd respondent and demanded him to refund the advance

amount, he threatened him with dire consequences and abused him with filthy language. In those circumstances, the petitioner filed the said complaint. However, the said complaint was dismissed by the learned Magistrate by orders dated 08.09.2017 observing that the matter is a violation of civil contract and no criminal element is involved in it. Aggrieved by the said orders, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that the Court below dismissed the complaint on mere assumptions and presumptions, but not as per the independent adjudication of the averments in the complaint. The learned Magistrate failed to appreciate the factum of the 2nd respondent inducing the petitioner to part with Rs.2,50,000/- as an advance sale consideration. When the 2nd respondent failed to execute a registered sale deed and on demand, when he has threatened, the same would amount to offence under Sections 420 and 506 IPC. The learned Magistrate erred in dismissing the complaint saying that it is a violation of civil contract.

Having heard the learned counsel and from a perusal of the material on record, the allegation made against the 2nd respondent appears to be purely civil in nature, since the basic allegation against him is that having received a sum of Rs.2,50,000/- towards advance sale consideration, he failed to execute a registered sale deed. The reasons for not executing a registered sale deed are not mentioned in the

complaint. What are the terms and conditions of the said agreement for selling the subject property in favour of the petitioner is also not born out of the record. Therefore, in the absence of the said terms and conditions, it cannot be said as to whether the 2nd respondent induced the petitioner to part with the said amount. Therefore, at best, it can be only a violation of a contract for selling the subject property. In such a case, it cannot be said that the ingredients of Sections 420 and 506 IPC are established. It appears that the petitioner resorted to filing of the complaint to pressurize the 2nd respondent and make him to come to terms. If the 2nd respondent has violated the terms of the contract, the remedy available to the petitioner is by way of filing a comprehensive civil suit in the civil Court. The petitioner cannot give a criminal colour to the matter, which is purely civil in nature. Therefore, there is no illegality or irregularity in the impugned orders passed by the learned Magistrate. Thus, there are no merits and the revision case is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA RAO, J

Date: 10.12.2018.
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